



General Assembly

January Session, 2011

Raised Bill No. 1188

LCO No. 4534

04534_____GAE

Referred to Committee on Government Administration and Elections

Introduced by:
(GAE)

AN ACT ESTABLISHING THE DIVISION OF ADMINISTRATIVE HEARINGS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2011*) (a) There shall be
2 established a Division of Administrative Hearings within the
3 Department of Administrative Services, for administrative purposes
4 only. The Division of Administrative Hearings shall conduct impartial
5 hearings of contested cases in accordance with the provisions of
6 sections 2 to 9, inclusive, section 20 of this act and chapter 54 of the
7 general statutes. The Chief Administrative Law Adjudicator shall be
8 the chief executive officer of the Division of Administrative Hearings.

9 (b) For purposes of sections 2 to 9, inclusive, and section 20 of this
10 act, (1) "administrative law adjudicator" means a person whose
11 primary duties are to conduct hearings in contested cases and issue
12 final decisions or proposed final decisions and who is transferred to
13 the Division of Administrative Hearings pursuant to section 4 of this
14 act or appointed by the Chief Administrative Law Adjudicator
15 pursuant to chapter 67 of the general statutes; and (2) "Chief

16 Administrative Law Adjudicator" means the administrative law
17 adjudicator nominated by the Governor in accordance with section 2 of
18 this act to serve as Chief Administrative Law Adjudicator.

19 Sec. 2. (NEW) (*Effective October 1, 2011*) (a) On or after October 1,
20 2011, the Governor shall appoint the Chief Administrative Law
21 Adjudicator to serve a term expiring on March 1, 2012. Thereafter, the
22 Governor shall, with the advice and consent of both houses of the
23 General Assembly, nominate the Chief Administrative Law
24 Adjudicator, who shall serve a term of six years, or until a successor is
25 qualified. Any person nominated under this section shall have been
26 admitted to the practice of law in the state for at least ten years, shall
27 be knowledgeable on the subject of administrative law and shall be a
28 resident of the state.

29 (b) Each nomination made by the Governor to the General
30 Assembly for Chief Administrative Law Adjudicator shall be referred,
31 without debate, to the committee on the judiciary, which shall report
32 on such nomination not later than thirty legislative days after the time
33 of reference, but not later than seven legislative days before the
34 adjourning of the General Assembly.

35 (c) Each appointment of the Chief Administrative Law Adjudicator
36 shall be by concurrent resolution. The action on the passage of each
37 such resolution in the House of Representatives and in the Senate shall
38 be by vote taken on the electrical roll-call device. No resolution shall
39 contain the name of more than one nominee.

40 (d) The Governor shall, within five days after receiving notice that a
41 nomination made pursuant to this section has failed to be approved by
42 the affirmative concurrent action of both houses of the General
43 Assembly, make another nomination to such office.

44 (e) The Chief Administrative Law Adjudicator shall take an oath of
45 office in accordance with section 1-25 of the general statutes prior to
46 commencing his or her duties, shall perform such duties full time and

47 shall not engage is the private practice of law. The Chief
48 Administrative Law Adjudicator may be renominated following the
49 same process set forth in this section for initial nominations.

50 (f) The Governor may remove the Chief Administrative Law
51 Adjudicator during his or her term for good cause.

52 (g) Notwithstanding the provisions of section 4-19 of the general
53 statutes, no vacancy in the position of Chief Administrative Law
54 Adjudicator shall be filled by the Governor when the General
55 Assembly is not in session unless, prior to such filling, the Governor
56 submits the name of the proposed vacancy appointee to the committee
57 on the judiciary. Within forty-five days, the committee on the judiciary
58 may, upon the call of either chairman, hold a special meeting for the
59 purpose of approving or disapproving such proposed vacancy
60 appointee by majority vote. The Governor shall not administer the
61 oath of office to such proposed vacancy appointee until the committee
62 has approved such proposed vacancy appointee. If the committee
63 determines that it cannot act on such proposed vacancy appointee
64 within such forty-five-day period, it may extend such period by an
65 additional fifteen days. The committee shall notify the Governor in
66 writing of any such extension. Failure of the committee to act on such
67 proposed vacancy appointee within such forty-five-day period or any
68 fifteen-day extension period shall be deemed to be an approval.

69 Sec. 3. (NEW) (*Effective October 1, 2011*) (a) The Chief Administrative
70 Law Adjudicator shall:

71 (1) Have all of the powers specifically granted in the general statutes
72 and any additional powers that are reasonable and necessary to enable
73 the Chief Administrative Law Adjudicator to carry out the duties of his
74 or her office, including, but not limited to, the powers set forth in
75 section 4-8 of the general statutes;

76 (2) Assign administrative law adjudicators in all cases referred to
77 the Division of Administrative Hearings, provided, in assigning an

78 administrative law adjudicator to a case, the Chief Administrative Law
79 Adjudicator shall, whenever practicable, assign an administrative law
80 adjudicator who has expertise in the legal issues or general subject
81 matter of the proceeding;

82 (3) Have all the powers and duties of an administrative law
83 adjudicator;

84 (4) Prepare an edited version of a proposed final decision and final
85 decision that shall not disclose protected information in any case
86 where any provision of the general statutes, federal law, state or
87 federal regulations, or an order of a court of competent jurisdiction
88 bars the disclosure of the identity of any person or party or bars the
89 disclosure of any other information;

90 (5) Collect, compile and prepare statistics and other data with
91 respect to the operations of the Division of Administrative Hearings
92 and, not later than January first of each year, submit to the Governor
93 and the General Assembly, in accordance with the provisions of
94 section 11-4a of the general statutes, a report on such operations,
95 including, but not limited to, the number of hearings initiated, the
96 number of proposed final decisions rendered, the number of partial or
97 total reversals of such decisions by the agencies, the number of final
98 decisions rendered and the number of proceedings pending;

99 (6) Study the subject of administrative adjudication in all its aspects
100 and develop recommendations to promote the goals of impartiality,
101 fairness, uniformity and cost-effectiveness in the administration and
102 conduct of hearings of contested cases;

103 (7) Develop a program for the continuing education of
104 administrative law adjudicators in procedural due process and in the
105 substantive law of the agencies that are subject to the provisions of
106 section 8 of this act and training for ancillary personnel and implement
107 such program; and

108 (8) Index, by name and subject, all written orders and final decisions
109 and make all indices, proposed final decisions and final decisions
110 available for public inspection, and copying electronically and to the
111 extent required by the Freedom of Information Act, as defined in
112 section 1-200 of the general statutes.

113 (b) The Chief Administrative Law Adjudicator shall be exempt from
114 the classified service.

115 (c) The Chief Administrative Law Adjudicator, administrative law
116 adjudicators, assistants and other employees of the Division of
117 Administrative Hearings shall be entitled to the fringe benefits
118 applicable to other state employees, shall be included under the
119 provisions of chapters 65 and 66 of the general statutes regarding
120 disability and retirement of state employees, and shall receive full
121 retirement credit for each year or portion thereof for which retirement
122 benefits are paid for service as such Chief Administrative Law
123 Adjudicator, administrative law adjudicator, assistant or other
124 employee.

125 (d) The Chief Administrative Law Adjudicator shall adopt
126 regulations in accordance with the provisions of chapter 54, to carry
127 out the provisions of section 1 to 9, inclusive, and section 20 of this act,
128 and sections 4-176e to 4-181a of the general statutes, as amended by
129 this act. Such regulations, with respect to contested cases heard by the
130 Division of Administrative Hearings, shall supersede any inconsistent
131 agency regulations, policies or procedures, including, but not limited
132 to, provisions related to time limits for agency action in contested
133 cases, notices of hearings, the scheduling of hearings and the
134 assignment of administrative law adjudicators except the regulations
135 may not supersede any provisions of agency regulations mandated by
136 the general statutes or federal law.

137 Sec. 4. (NEW) (*Effective October 1, 2011*) (a) Notwithstanding any
138 provision of the general statutes, each full-time employee or
139 permanent part-time employee of an agency subject to the provisions

140 of section 8 of this act whose primary duties (1) are to conduct hearings
141 in contested cases and issue final decisions or proposed final decisions,
142 or (2) relate to providing administrative services required for
143 conducting such hearings and issuing such decisions, shall be
144 transferred to the Division of Administrative Hearings, in accordance
145 with the provisions of this section and sections 4-38d, 4-38e and 4-39 of
146 the general statutes.

147 (b) Persons transferred to the Division of Administrative Hearings
148 pursuant to this section and persons appointed by the Chief
149 Administrative Law Adjudicator pursuant to chapter 67 of the general
150 statutes shall be in the classified service, represented by the collective
151 bargaining representative of an employee organization and subject to
152 the provisions of chapter 68 of the general statutes. Persons transferred
153 to the Division of Administrative Hearings pursuant to this section
154 who are members of an employee organization at the time of their
155 transfer shall continue to be represented by such employee
156 organization. For the purposes of this subsection "employee
157 organization" has the same meaning as in section 5-270 of the general
158 statutes.

159 (c) The salaries, seniority and benefits of persons transferred to the
160 Division of Administrative Hearings pursuant to this section shall not
161 be reduced as a result of the transfer.

162 (d) No promotions governed by any existing and applicable
163 memorandum of understanding between the Office of Labor Relations
164 and any collective bargaining representative for state employees shall
165 be denied, delayed, impaired or eliminated by the implementation of
166 sections 1 to 9, inclusive, of this act.

167 (e) (1) Persons transferred to the Division of Administrative
168 Hearings pursuant to this section who are members of a collective
169 bargaining unit at the time of their transfer shall (A) not lose the job
170 classification in which they are placed at the time of their transfer as a
171 result of the transfer, and (B) remain the beneficiaries of any existing

172 and applicable memorandum of understanding between the Office of
173 Labor Relations and any collective bargaining representative for state
174 employees. The rights and obligations contained in any memorandum
175 of understanding that applies to staff attorneys shall apply to
176 administrative law adjudicators transferred to the Division of
177 Administrative Hearings and appointed by the Chief Administrative
178 Law Adjudicator.

179 (2) Persons transferred to the Division of Administrative Hearings
180 pursuant to this section who are not members of a collective
181 bargaining unit at the time of their transfer, and persons appointed by
182 the Chief Administrative Law Adjudicator, shall (A) have a job
183 classification commensurate with persons who are members of a
184 collective bargaining unit at the time of their transfer, and (B) be
185 subject to and become the beneficiaries of the terms of any existing and
186 applicable memorandum of understanding between the Office of
187 Labor Relations and any collective bargaining representative for state
188 employees, including the rights and obligations contained in any
189 memorandum of understanding that applies to staff attorneys. Persons
190 transferred to the Division of Administrative Hearings pursuant to this
191 section who are not members of a collective bargaining unit at the time
192 of their transfer shall be assigned to the appropriate collective
193 bargaining unit as determined by the Office of Labor Relations.

194 (f) Time served in other agencies by persons transferred to the
195 Division of Administrative Hearings pursuant to this section shall be
196 recognized as qualifying experience and time in the Division of
197 Administrative Hearings shall count as successful and satisfactory
198 performance for career progression under any existing and applicable
199 memorandum of understanding between the Office of Labor Relations
200 and any collective bargaining representative for state employees.

201 (g) An administrative law adjudicator, assistant or other employee
202 of the Division of Administrative Hearings who is removed,
203 suspended, demoted or subjected to disciplinary action or other

204 adverse employment action may appeal such action in accordance
205 with the applicable collective bargaining agreement.

206 Sec. 5. (NEW) (*Effective January 1, 2012*) (a) Each administrative law
207 adjudicator shall have been admitted to the practice of law in this state
208 for at least two years, except that such requirement shall not apply to
209 any administrative law adjudicator transferred pursuant to section 4 of
210 this act. Each administrative law adjudicator shall be knowledgeable
211 on the subject of administrative law, competent, impartial, objective
212 and free from inappropriate influence.

213 (b) An administrative law adjudicator shall have the powers
214 granted to hearing officers and presiding officers pursuant to sections
215 1 to 9, inclusive, section 20 of this act and chapter 54 of the general
216 statutes.

217 (c) An administrative law adjudicator appointed to the Division of
218 Administrative Hearings may engage in the private practice of law as
219 long as (1) such administrative law adjudicator discloses the nature
220 and scope of his or her private law practice to the Chief Administrative
221 Law Adjudicator, and (2) the Chief Administrative Law Adjudicator
222 determines that no conflict of interest exists arising from such law
223 practice that would create an actual or perceived conflict of interest or
224 bias for the administrative law adjudicator to act or perform his or her
225 adjudicative duties assigned by the Chief Administrative Law
226 Adjudicator.

227 Sec. 6. (NEW) (*Effective January 1, 2012*) (a) All hearings in contested
228 cases conducted by the Division of Administrative Hearings shall be
229 conducted by an administrative law adjudicator assigned by the Chief
230 Administrative Law Adjudicator and shall be conducted in accordance
231 with sections 1 to 9, inclusive, and section 20 of this act and sections 4-
232 176e to 4-181a, inclusive, of the general statutes, as amended by this
233 act.

234 (b) Unless different time limits are provided by any provision of the

235 general statutes for contested cases before an agency, the time limits
236 provided in sections 4-176e to 4-181a, inclusive, of the general statutes,
237 as amended by this act, shall apply to all contested cases conducted by
238 the Division of Administrative Hearings.

239 Sec. 7. (NEW) (*Effective January 1, 2012*) An administrative law
240 adjudicator may conduct hearings and settlement negotiations held by
241 the Division of Administrative Hearings. If a contested case is not
242 resolved through settlement negotiations, either party may proceed to
243 a hearing. An administrative law adjudicator who attempts to settle a
244 matter may not thereafter be assigned to hear the matter. If a contested
245 case is resolved by stipulation, agreed settlement or consent order, the
246 administrative law adjudicator shall issue an order dismissing the
247 contested case. The order shall incorporate by reference such
248 stipulation, agreed settlement or consent order which shall be attached
249 to such order. The order shall further provide that no findings of fact
250 or conclusions of law have been made regarding any alleged violations
251 of the law. The order and stipulation, agreed settlement or consent
252 order may be enforceable by any party in the superior court for the
253 judicial district of New Britain. A party may petition said court for
254 enforcement of the order and stipulation, agreed settlement or consent
255 order and for appropriate temporary relief or a restraining order.

256 Sec. 8. (NEW) (*Effective January 1, 2012*) (a) Notwithstanding any
257 provision of the general statutes, and except as otherwise provided in
258 section 9 of this act, on and after January 1, 2012, the Division of
259 Administrative Hearings shall conduct hearings and render proposed
260 final decisions or, if authorized or required by law, final decisions in
261 contested cases:

262 (1) Pursuant to subdivision (3) of subsection (b) of section 4-61dd of
263 the general statutes, as amended by this act;

264 (2) Brought by or before the Department of Children and Families;

265 (3) Brought by or before the Department of Transportation;

266 (4) Brought by or before the Commission on Human Rights and
267 Opportunities;

268 (5) Brought by or before the Department of Motor Vehicles; and

269 (6) Brought by or before the Department of Consumer Protection.

270 (b) Any agency that is not required to refer contested cases to the
271 Division of Administrative Hearings pursuant to this section may,
272 with the consent of the Chief Administrative Law Adjudicator, refer
273 any contested case brought by or before such agency, to the Division of
274 Administrative Hearings for purposes of settlement or a full
275 adjudication of the contested case by an administrative law
276 adjudicator. If an agency requests a full adjudication of the contested
277 case, the agency shall specify whether the decision shall be a final
278 decision or a proposed final decision. The agency referring the
279 contested case shall incur the cost of transcripts if the Chief
280 Administrative Law Adjudicator requests transcription services for the
281 hearing. Upon issuance of the final decision or proposed final decision,
282 the Chief Administrative Law Adjudicator shall forward the record to
283 the referring agency.

284 (c) The powers, functions and duties of conducting hearings and
285 issuing decisions in contested cases enumerated in subsections (a) and
286 (b) of this section shall, on the date specified in subsection (a) of this
287 section or the date of referral in subsection (b) of this section, be
288 transferred to the Division of Administrative Hearings in accordance
289 with the provisions of sections 4-38d, 4-38e and 4-39 of the general
290 statutes.

291 (d) The Division of Administrative Hearings shall render final
292 decisions for all cases described in subdivisions (1) and (2) of
293 subsection (a) of this section.

294 (e) If the administrative law adjudicator issues a proposed final
295 decision and the agency modifies the proposed final decision, the

296 agency shall identify such modifications and provide an explanation to
297 the parties of why the agency made each modification.

298 (f) If the administrative law adjudicator issues a proposed final
299 decision and the agency modifies a finding of fact of such adjudicator,
300 in any appeal of a final decision by a party to the Superior Court, the
301 Superior Court shall review the record. If the Superior Court finds that
302 the administrative law adjudicator's finding of fact is supported by
303 substantial evidence in the record, the court shall remand the matter to
304 the agency for entry of an order consistent with the court's judgment.

305 (g) Except as provided in subsection (h) of this section, any hearing
306 officer under contract with an agency to conduct hearings and issue
307 decisions in contested cases enumerated in subsections (a) and (b) of
308 this section shall, on and after the date specified in subsection (a) of
309 this section or the date of referral in subsection (b) of this section,
310 continue to serve until all such cases assigned to such hearing officer
311 are completed, unless the Chief Administrative Law Adjudicator
312 determines that the case shall be reassigned to an administrative law
313 adjudicator.

314 (h) Any hearing officer under contract with the Department of
315 Motor Vehicles to conduct hearings and issue decisions in contested
316 cases shall, on and after January 1, 2012, serve under contract with the
317 Division of Administrative Hearings to conduct hearings brought by
318 or before the Department of Motor Vehicles. Any vacancies in such
319 positions shall be filled by persons appointed by the Chief
320 Administrative Law Adjudicator pursuant to chapter 67 of the general
321 statutes. Persons appointed by the Chief Administrative Law
322 Adjudicator to fill such vacancies shall (1) be in the classified service,
323 (2) be represented by the collective bargaining representative of an
324 employee organization, as defined in section 5-270 of the general
325 statutes, and (3) be subject to the provisions of chapter 68 of the
326 general statutes.

327 (i) Nothing in this section shall be construed to apply to the State

328 Board of Mediation and Arbitration or the State Board of Labor
329 Relations.

330 (j) Agencies whose contested cases are conducted by the Division of
331 Administrative Hearings, including, but not limited to, the
332 Department of Children and Families, shall execute any requisite
333 contract with the Division of Administrative Hearings that is necessary
334 to maintain and secure any federal or state funding or reimbursement.

335 Sec. 9. (NEW) (*Effective January 1, 2012*) No administrative law
336 adjudicator may be assigned by the Chief Administrative Law
337 Adjudicator to hear a contested case with respect to:

338 (1) Any hearing that is required by federal law to be conducted by a
339 specific agency or other hearing authority;

340 (2) Any matter where the head of the agency, or one or more of the
341 members of a multimember agency, presides at the hearing in a
342 contested case; or

343 (3) Any matter involving issues, claims or subject matter associated,
344 related or connected with the administrative law adjudicator's private
345 law practice where the assignment would create an actual or perceived
346 conflict of interest, perception of bias or lack of impartiality.

347 Sec. 10. Section 4-166 of the general statutes is repealed and the
348 following is substituted in lieu thereof (*Effective January 1, 2012*):

349 As used in this chapter and sections 1 to 9, inclusive, and section 20
350 of this act, unless the context otherwise requires:

351 (1) "Agency" means each state board, commission, department or
352 officer authorized by law to make regulations or to determine
353 contested cases, but does not include either house or any committee of
354 the General Assembly, the courts, the Council on Probate Judicial
355 Conduct, the Governor, Lieutenant Governor or Attorney General, or
356 town or regional boards of education, or automobile dispute

357 settlement panels established pursuant to section 42-181;

358 (2) "Contested case" means a proceeding, including but not
359 restricted to rate-making, price fixing and licensing, in which the legal
360 rights, duties or privileges of a party are required by state statute or
361 regulation to be determined by an agency or by the Division of
362 Administrative Hearings after an opportunity for hearing or in which a
363 hearing is in fact held, but does not include proceedings on a petition
364 for a declaratory ruling under section 4-176, as amended by this act,
365 hearings referred to in section 4-168 or hearings conducted by the
366 Department of Correction or the Board of Pardons and Paroles;

367 (3) "Final decision" means (A) the [agency] determination in a
368 contested case made pursuant to section 4-179, as amended by this act,
369 section 20 of this act and section 4-180, as amended by this act, (B) a
370 declaratory ruling issued by an agency pursuant to section 4-176, as
371 amended by this act, or (C) [an agency] a decision made after
372 reconsideration of a final decision. The term does not include a
373 preliminary or intermediate ruling or order, [of an agency,] or a ruling
374 [of an agency] granting or denying a petition for reconsideration;

375 (4) "Hearing officer" means an individual appointed by an agency to
376 conduct a hearing in an agency proceeding that is not conducted by an
377 administrative law adjudicator pursuant to section 8 of this act. Such
378 individual may be a staff employee of the agency;

379 (5) "Intervenor" means a person, other than a party, granted status
380 as an intervenor by an agency in accordance with the provisions of
381 subsection (d) of section 4-176 or subsection (b) of section 4-177a, as
382 amended by this act;

383 (6) "License" includes the whole or part of any agency permit,
384 certificate, approval, registration, charter or similar form of permission
385 required by law, but does not include a license required solely for
386 revenue purposes;

387 (7) "Licensing" includes the agency process respecting the grant,
388 denial, renewal, revocation, suspension, annulment, withdrawal or
389 amendment of a license;

390 (8) "Party" means each person (A) whose legal rights, duties or
391 privileges are required by statute to be determined by an agency
392 proceeding and who is named or admitted as a party, (B) who is
393 required by law to be a party in an agency proceeding, or (C) who is
394 granted status as a party under subsection (a) of section 4-177a, as
395 amended by this act;

396 (9) "Person" means any individual, partnership, corporation, limited
397 liability company, association, governmental subdivision, agency or
398 public or private organization of any character, but does not include
399 the agency conducting the proceeding;

400 (10) "Presiding officer" means the head of the agency presiding at a
401 hearing, the member of [an] a multimember agency, [or] the hearing
402 officer designated by the head of the agency to preside at [the] a
403 hearing or an administrative law adjudicator presiding at a hearing;

404 (11) "Proposed final decision" means a final decision proposed by an
405 agency or a presiding officer under section 4-179, as amended by this
406 act, or section 20 of this act;

407 (12) "Proposed regulation" means a proposal by an agency under
408 the provisions of section 4-168 for a new regulation or for a change in,
409 addition to or repeal of an existing regulation;

410 (13) "Regulation" means each agency statement of general
411 applicability, without regard to its designation, that implements,
412 interprets, or prescribes law or policy, or describes the organization,
413 procedure, or practice requirements of any agency. The term includes
414 the amendment or repeal of a prior regulation, but does not include
415 (A) statements concerning only the internal management of any
416 agency and not affecting private rights or procedures available to the

417 public, (B) declaratory rulings issued pursuant to section 4-176, as
418 amended by this act, or (C) intra-agency or interagency memoranda;

419 (14) "Regulation-making" means the process for formulation and
420 adoption of a regulation;

421 (15) "Administrative law adjudicator" has the same meaning as
422 provided in section 1 of this act; and

423 (16) "Head of the agency" means the individual or group of
424 individuals constituting the highest authority within an agency.

425 Sec. 11. Subsection (g) of section 4-176 of the general statutes is
426 repealed and the following is substituted in lieu thereof (*Effective*
427 *January 1, 2012*):

428 (g) If the agency conducts a hearing in a proceeding for a
429 declaratory ruling, the provisions of [subsection (b) of section 4-177c,]
430 section 4-178, as amended by this act, and section 4-179, as amended
431 by this act, shall apply to the hearing.

432 Sec. 12. Section 4-176e of the general statutes is repealed and the
433 following is substituted in lieu thereof (*Effective January 1, 2012*):

434 Except as otherwise required by the general statutes, a [hearing in
435 an agency proceeding may be held before (1)] contested case shall be
436 heard by (1) an administrative law adjudicator, (2) the head of the
437 agency, (3) one or more of the members of a multimember agency, or
438 (4) one or more hearing officers, provided no individual who has
439 personally carried out the function of an investigator in a contested
440 case may serve as a hearing officer in that case. [, or (2) one or more of
441 the members of the agency.]

442 Sec. 13. Section 4-177 of the general statutes is repealed and the
443 following is substituted in lieu thereof (*Effective January 1, 2012*):

444 (a) In a contested case, all parties shall be afforded an opportunity

445 for hearing after reasonable notice from the agency.

446 (b) The notice shall be in writing and shall include: (1) A statement
447 of the time, place [,] and nature of the hearing or, if the contested case
448 has been referred to the Division of Administrative Hearings, a
449 statement that the matter has been referred to the Division of
450 Administrative Hearings and that the time and place of the hearing
451 will be set by an administrative law adjudicator; (2) a statement of the
452 legal authority and jurisdiction under which the hearing is to be held;
453 (3) a reference to the particular sections of the statutes and regulations
454 involved; and (4) a short and plain statement of the matters asserted. If
455 the agency or party is unable to state the matters in detail at the time
456 the notice is served, the initial notice may be limited to a statement of
457 the issues involved. Thereafter, upon application, a more definite and
458 detailed statement shall be furnished.

459 (c) After an agency refers a contested case to the Division of
460 Administrative Hearings, the agency shall certify the official record in
461 such contested case to the Division of Administrative Hearings. The
462 Division of Administrative Hearings shall issue a notice in writing to
463 all parties that shall include a statement of the time, place and nature
464 of the hearing. Thereafter, a party shall file all documents that are to
465 become part of such record with the Division of Administrative
466 Hearings. The filing of such documents with the agency rather than
467 with the Division of Administrative Hearings shall not be a
468 jurisdictional defect and shall not be grounds for termination of the
469 proceeding, provided the administrative law adjudicator may assess
470 appropriate costs and sanctions against a party who misfiles such
471 documents on a showing of prejudice resulting from a wilful misfiling.
472 The Division of Administrative Hearings shall maintain the official
473 record of a contested case referred to said division.

474 [(c)] (d) Unless precluded by law, a contested case may be resolved
475 by stipulation, agreed settlement [,] or consent order or by the default
476 of a party.

477 [(d)] (e) The record in a contested case shall include: (1) Written
478 notices related to the case; (2) all petitions, pleadings, motions and
479 intermediate rulings; (3) evidence received or considered; (4) questions
480 and offers of proof, objections and rulings thereon; (5) the official
481 transcript, if any, of proceedings relating to the case, or, if not
482 transcribed, any recording or stenographic record of the proceedings;
483 (6) proposed final decisions and exceptions thereto; and (7) the final
484 decision.

485 [(e)] (f) Any recording or stenographic record of the proceedings
486 shall be transcribed on request of any party. The requesting party shall
487 pay the cost of such transcript, unless otherwise provided by law.
488 Nothing in this section shall relieve an agency of its responsibility
489 under section 4-183, as amended by this act, to transcribe the record for
490 an appeal.

491 Sec. 14. Section 4-177a of the general statutes is repealed and the
492 following is substituted in lieu thereof (*Effective January 1, 2012*):

493 (a) The presiding officer shall grant a person status as a party in a
494 contested case if [that] such officer finds that: (1) Such person has
495 submitted a written petition to the agency or presiding officer, and
496 mailed copies to all parties, at least five days before the date of
497 hearing; and (2) the petition states facts that demonstrate that the
498 petitioner's legal rights, duties or privileges shall be specifically
499 affected by [the agency's] a decision in the contested case.

500 (b) The presiding officer may grant any person status as an
501 intervenor in a contested case if [that] such officer finds that: (1) Such
502 person has submitted a written petition to the agency or presiding
503 officer, and mailed copies to all parties, at least five days before the
504 date of hearing; and (2) the petition states facts that demonstrate that
505 the petitioner's participation is in the interests of justice and will not
506 impair the orderly conduct of the proceedings.

507 (c) The five-day requirement in subsections (a) and (b) of this

508 section may be waived at any time before or after commencement of
509 the hearing by the presiding officer on a showing of good cause.

510 (d) If a petition is granted pursuant to subsection (b) of this section,
511 the presiding officer may limit the intervenor's participation to
512 designated issues in which the intervenor has a particular interest as
513 demonstrated by the petition and shall define the intervenor's rights to
514 inspect and copy records, physical evidence, papers and documents, to
515 introduce evidence [.] and to argue and cross-examine on those issues.
516 The presiding officer may further restrict the participation of an
517 intervenor in the proceedings, including the rights to inspect and copy
518 records, to introduce evidence and to cross-examine, so as to promote
519 the orderly conduct of the proceedings.

520 Sec. 15. Section 4-177b of the general statutes is repealed and the
521 following is substituted in lieu thereof (*Effective January 1, 2012*):

522 In a contested case, the presiding officer may administer oaths, take
523 testimony under oath relative to the case, subpoena witnesses and
524 require the production of records, physical evidence, papers and
525 documents to any hearing held in the case. If any person disobeys the
526 subpoena or, having appeared, refuses to answer any question put to
527 [him] such person or to produce any records, physical evidence,
528 papers and documents requested by the presiding officer, the
529 administrative law adjudicator or, if the hearing is conducted by the
530 agency, the agency, may apply to the superior court for the judicial
531 district of [Hartford] New Britain or for the judicial district in which
532 the person resides, or to any judge of that court if it is not in session,
533 setting forth the disobedience to the subpoena or refusal to answer or
534 produce, and the court or judge shall cite the person to appear before
535 the court or judge to show cause why the records, physical evidence,
536 papers and documents should not be produced or why a question put
537 to [him] such person should not be answered. Nothing in this section
538 shall be construed to limit the authority of the agency, the
539 administrative law adjudicator or any party as otherwise allowed by

540 law.

541 Sec. 16. Section 4-177c of the general statutes is repealed and the
542 following is substituted in lieu thereof (*Effective January 1, 2012*):

543 (a) In a contested case, each party and the agency, including an
544 agency conducting the proceeding, shall be afforded the opportunity
545 (1) to inspect and copy relevant and material records, papers and
546 documents not in the possession of the party or such agency, except as
547 otherwise provided by federal law or any other provision of the
548 general statutes, and (2) at a hearing, to respond, to cross-examine
549 other parties, intervenors [,] and witnesses, and to present evidence
550 and argument on all issues involved.

551 (b) Persons not named as parties or intervenors may, in the
552 discretion of the presiding officer, be given an opportunity to present
553 oral or written statements. The presiding officer may require any such
554 statement to be given under oath or affirmation.

555 Sec. 17. Section 4-178 of the general statutes is repealed and the
556 following is substituted in lieu thereof (*Effective January 1, 2012*):

557 In contested cases: (1) Any oral or documentary evidence may be
558 received, but the [agency] presiding officer shall, as a matter of policy,
559 provide for the exclusion of irrelevant, immaterial or unduly
560 repetitious evidence; (2) [agencies shall give effect to] the rules of
561 privilege recognized by law shall be given effect; (3) when a hearing
562 will be expedited and the interests of the parties will not be prejudiced
563 substantially, any part of the evidence may be received in written
564 form; (4) documentary evidence may be received in the form of copies
565 or excerpts, if the original is not readily available, and upon request,
566 parties and the agency, including an agency conducting the
567 proceeding, shall be given an opportunity to compare the copy with
568 the original; (5) a party and [such] the agency, including an agency
569 conducting the proceeding, may conduct cross-examinations required
570 for a full and true disclosure of the facts; (6) notice may be taken of

571 judicially cognizable facts; [and of] (7) in a proceeding conducted by
 572 the agency or in an agency review of a proposed final decision, notice
 573 may be taken of generally recognized technical or scientific facts
 574 within the agency's specialized knowledge; [(7)] (8) parties shall be
 575 notified in a timely manner of any material noticed, including any
 576 agency memoranda or data, and they shall be afforded an opportunity
 577 to contest the material so noticed; and [(8) the agency's] (9) in a
 578 proceeding conducted by the agency or in an agency review of a
 579 proposed final decision, the agency may use its experience, technical
 580 competence [,] and specialized knowledge [may be used] in the
 581 evaluation of the evidence.

582 Sec. 18. Section 4-178a of the general statutes is repealed and the
 583 following is substituted in lieu thereof (*Effective January 1, 2012*):

584 If a hearing in a contested case or in a declaratory ruling proceeding
 585 is held before a hearing officer or before less than a majority of the
 586 members of the agency who are authorized by law to render a final
 587 decision, a party, if permitted by regulation and before rendition of the
 588 final decision, may request a review by a majority of the members of
 589 the agency, of any preliminary, procedural or evidentiary ruling made
 590 at the hearing. The majority of the members may make an appropriate
 591 order, including the reconvening of the hearing. The provisions of this
 592 section shall not apply to a hearing conducted by an administrative
 593 law adjudicator.

594 Sec. 19. Section 4-179 of the general statutes is repealed and the
 595 following is substituted in lieu thereof (*Effective January 1, 2012*):

596 (a) When, in an agency proceeding that is not conducted by an
 597 administrative law adjudicator, a majority of the members of the
 598 agency who are to render the final decision have not heard the matter
 599 or read the record, the decision, if adverse to a party, shall not be
 600 rendered until a proposed final decision is served upon the parties,
 601 and an opportunity is afforded to each party adversely affected to file
 602 exceptions and present briefs and oral argument to the members of the

603 agency who are to render the final decision.

604 (b) A proposed final decision made under this section shall be in
605 writing and [contain a statement of the reasons for the decision and a
606 finding of facts and conclusion of law on each issue of fact or law
607 necessary to the decision] shall comply with the requirements of
608 subsection (c) of section 4-180, as amended by this act.

609 (c) Except when authorized by law to render a final decision for an
610 agency, a hearing officer shall, after hearing a matter, make a proposed
611 final decision.

612 (d) The parties and the agency conducting the proceeding, by
613 written stipulation, may waive compliance with this section.

614 Sec. 20. (NEW) (*Effective January 1, 2012*) (a) A proposed final
615 decision rendered by an administrative law adjudicator shall be
616 delivered promptly to each party or the party's authorized
617 representative, and to the agency, personally or by United States mail,
618 certified or registered, postage prepaid. After such proposed final
619 decision is rendered, the record in the contested case shall be delivered
620 promptly to the agency.

621 (b) A proposed final decision rendered by an administrative law
622 adjudicator shall become a final decision of the agency unless the head
623 of the agency, not later than twenty-one days following the date the
624 proposed final decision is delivered or mailed to the agency, modifies
625 or rejects the proposed final decision, provided the head of the agency
626 may, before expiration of such time period and for good cause, certify
627 the extension of such time period for not more than an additional
628 twenty-one days. If the head of the agency modifies or rejects the
629 proposed final decision, the head of the agency shall state the reason
630 for the modification or rejection on the record. In reviewing a proposed
631 final decision rendered by an administrative law adjudicator, the head
632 of the agency may afford each party, including the agency, an
633 opportunity to present briefs and may afford each party, including the

634 agency, an opportunity to present oral argument.

635 (c) If, within the time period provided in subsection (b) of this
 636 section, the head of the agency, in reviewing a proposed final decision
 637 rendered by an administrative law adjudicator, determines that
 638 additional evidence is necessary, the head of the agency shall refer the
 639 matter to the Division of Administrative Hearings. The Chief
 640 Administrative Law Adjudicator shall assign the administrative law
 641 adjudicator who rendered such proposed final decision to take the
 642 additional evidence unless such administrative law adjudicator is
 643 unavailable. After taking the additional evidence, the administrative
 644 law adjudicator shall, not later than thirty days following such referral,
 645 prepare a proposed final decision as provided in this section based on
 646 such additional evidence and the record of the prior hearing.

647 (d) A proposed final decision made under this section shall be in
 648 writing and shall comply with the requirements of subsection (c) of
 649 section 4-180 of the general statutes, as amended by this act.

650 Sec. 21. Section 4-180 of the general statutes is repealed and the
 651 following is substituted in lieu thereof (*Effective January 1, 2012*):

652 (a) Each agency and administrative law adjudicator shall proceed
 653 with reasonable dispatch to conclude any matter pending before [it]
 654 such agency or administrative law adjudicator and, in all hearings of
 655 contested cases conducted by the agency or the administrative law
 656 adjudicator, shall render a final decision within ninety days following
 657 the close of evidence or the due date for the filing of briefs, whichever
 658 is later. [, in such proceedings.]

659 (b) If, in any contested case, any agency or administrative law
 660 adjudicator fails to comply with the provisions of subsection (a) of this
 661 section, [in any contested case, any party thereto] any party to such
 662 contested case may apply to the superior court for the judicial district
 663 of [Hartford] New Britain for an order requiring the agency or
 664 administrative law adjudicator to render a proposed final decision or a

665 final decision forthwith. The court, after hearing, shall issue an
666 appropriate order.

667 (c) A final decision in a contested case shall be in writing or, if there
668 is no proposed final decision, orally stated on the record. [and, if
669 adverse to a party,] A proposed final decision and a final decision in a
670 contested case shall include [the agency's] findings of fact and
671 conclusions of law necessary to [its] the decision and shall be made by
672 applying all pertinent provisions of law. Findings of fact shall be based
673 exclusively on the evidence in the record and on matters noticed. The
674 [agency shall state in] proposed final decision and the final decision
675 shall contain the name of each party and the most recent mailing
676 address, provided to the agency, of the party or [his] the party's
677 authorized representative. If the final decision is orally stated on the
678 record, each such name and mailing address shall be included in the
679 record.

680 (d) The final decision shall be delivered promptly to each party or
681 [his] the party's authorized representative and, in the case of a final
682 decision by an administrative law adjudicator authorized by law to
683 render such decision, to the agency, personally or by United States
684 mail, certified or registered, postage prepaid, return receipt requested.
685 [The] An agency rendering a final decision shall immediately transmit
686 a copy of such decision to the Division of Administrative Hearings. A
687 proposed final decision that becomes a final decision because of
688 agency inaction, as provided in subsection (b) of section 20 of this act,
689 shall become effective at the expiration of the time period specified in
690 said subsection or on a later date specified in such proposed final
691 decision. Any other final decision shall be effective when personally
692 delivered or mailed or on a later date specified [by the agency] in such
693 final decision. The date of delivery or mailing of a proposed final
694 decision and a final decision shall be endorsed on the front of the
695 decision or on a transmittal sheet included with the decision.

696 Sec. 22. Subsection (a) of section 4-181 of the general statutes is

697 repealed and the following is substituted in lieu thereof (*Effective*
698 *January 1, 2012*):

699 (a) Unless required for the disposition of ex parte matters
700 authorized by law, no hearing officer, administrative law adjudicator
701 or member of an agency who, in a contested case, is to render a final
702 decision or to make a proposed final decision shall communicate,
703 directly or indirectly, in connection with any issue of fact, with any
704 person or party, or, in connection with any issue of law, with any party
705 or the party's representative, without notice and opportunity for all
706 parties to participate.

707 Sec. 23. Section 4-181a of the general statutes is repealed and the
708 following is substituted in lieu thereof (*Effective January 1, 2012*):

709 (a) (1) Unless otherwise provided by law, a party or the agency in a
710 contested case may, [within] not later than fifteen days after the
711 personal delivery or mailing of the final decision or not later than
712 fifteen days after the date that a proposed final decision becomes a
713 final decision because of agency inaction, as provided in subsection (b)
714 of section 20 of this act, file with the [agency] authority that rendered
715 the final decision a petition for reconsideration of the decision on the
716 ground that: (A) An error of fact or law should be corrected; (B) new
717 evidence has been discovered which materially affects the merits of the
718 case and which for good reasons was not presented in the agency
719 proceeding; or (C) other good cause for reconsideration has been
720 shown. [Within] Not later than twenty-five days [of] after the filing of
721 the petition, [the agency] such authority shall decide whether to
722 reconsider the final decision. The failure of [the agency] such authority
723 to make [that] such determination within twenty-five days of such
724 filing shall constitute a denial of the petition.

725 (2) [Within] Not later than forty days of the personal delivery or
726 mailing of the final decision, the [agency] authority that rendered the
727 final decision, regardless of whether a petition for reconsideration has
728 been filed, may decide to reconsider the final decision.

729 (3) If the [agency] authority that rendered the final decision decides
 730 to reconsider [a] the final decision, pursuant to subdivision (1) or (2) of
 731 this subsection, [the agency] such authority shall proceed in a
 732 reasonable time to conduct such additional proceedings as may be
 733 necessary to render a decision modifying, affirming or reversing the
 734 final decision, provided such decision made after reconsideration shall
 735 be rendered not later than ninety days following the date on which
 736 [the agency] such authority decides to reconsider the final decision. If
 737 [the agency] such authority fails to render such decision made after
 738 reconsideration within such ninety-day period, the original final
 739 decision shall remain the final decision in the contested case for
 740 purposes of any appeal under the provisions of section 4-183, as
 741 amended by this act.

742 (4) Except as otherwise provided in subdivision (3) of this
 743 subsection, [an agency] a decision made after reconsideration pursuant
 744 to this subsection shall become the final decision in the contested case
 745 in lieu of the original final decision for purposes of any appeal under
 746 the provisions of section 4-183, as amended by this act, including, but
 747 not limited to, an appeal of (A) any issue decided by the [agency]
 748 authority that rendered the final decision in its original final decision
 749 that was not the subject of any petition for reconsideration or [the
 750 agency's] such authority's decision made after reconsideration, (B) any
 751 issue as to which reconsideration was requested but not granted, and
 752 (C) any issue that was reconsidered but not modified by [the agency]
 753 such authority from the determination of such issue in the original
 754 final decision.

755 (b) On a showing of changed conditions, the [agency] authority that
 756 rendered the final decision may reverse or modify the final decision, at
 757 any time, at the request of any person or on [the agency's] such
 758 authority's own motion. The procedure set forth in this chapter for
 759 contested cases shall be applicable to any proceeding in which such
 760 reversal or modification of any final decision is to be considered. The
 761 party or parties who were the subject of the original final decision, or

762 their successors, if known, and intervenors in the original contested
763 case, shall be notified of the proceeding and shall be given the
764 opportunity to participate in the proceeding. Any decision to reverse
765 or modify a final decision shall make provision for the rights or
766 privileges of any person who has been shown to have relied on such
767 final decision.

768 (c) The [agency] authority that rendered the final decision may,
769 without further proceedings, modify a final decision to correct any
770 clerical error. A person may appeal [that] such modification under the
771 provisions of section 4-183, as amended by this act, or, if an appeal is
772 pending when the modification is made, may amend the appeal.

773 (d) For the purposes of this section and section 4-183, as amended
774 by this act, in the case of a proposed final decision that becomes a final
775 decision because of agency inaction, as provided in subsection (b) of
776 section 20 of this act, the authority that rendered the final decision
777 shall be deemed to be the agency.

778 Sec. 24. Section 4-183 of the general statutes is repealed and the
779 following is substituted in lieu thereof (*Effective January 1, 2012*):

780 (a) A person who has exhausted all administrative remedies
781 available within the agency and who is aggrieved by a final decision
782 may appeal to the Superior Court as provided in this section. The filing
783 of a petition for reconsideration is not a prerequisite to the filing of
784 such an appeal.

785 (b) A person may appeal a preliminary, procedural or intermediate
786 agency action or ruling to the Superior Court if (1) it appears likely that
787 the person will otherwise qualify under this chapter to appeal from the
788 final agency action or ruling, and (2) postponement of the appeal
789 would result in an inadequate remedy.

790 (c) (1) [Within] Not later than forty-five days after mailing of the
791 final decision under section 4-180, as amended by this act, or, if there is

792 no mailing, [within] not later than forty-five days after personal
 793 delivery of the final decision under said section, or (2) [within] not
 794 later than forty-five days after the [agency] authority that rendered the
 795 final decision denies a petition for reconsideration of the final decision
 796 pursuant to subdivision (1) of subsection (a) of section 4-181a, as
 797 amended by this act, or (3) [within] not later than forty-five days after
 798 mailing of the final decision made after reconsideration pursuant to
 799 subdivisions (3) and (4) of subsection (a) of section 4-181a, as amended
 800 by this act, or, if there is no mailing, [within] not later than forty-five
 801 days after personal delivery of the final decision made after
 802 reconsideration pursuant to said subdivisions, or (4) [within] not later
 803 than forty-five days after the expiration of the ninety-day period
 804 required under subdivision (3) of subsection (a) of section 4-181a, as
 805 amended by this act, if [the agency] such authority decides to
 806 reconsider the final decision and fails to render a decision made after
 807 reconsideration within such period, or (5) if a proposed final decision
 808 becomes a final decision because of agency inaction, as provided in
 809 subsection (b) of section 20 of this act, not later than forty-five days
 810 after the decision becomes final, whichever is applicable and is later, a
 811 person appealing as provided in this section shall serve a copy of the
 812 appeal on the agency [that rendered the final decision] at its office or at
 813 the office of the Attorney General in Hartford and file the appeal with
 814 the clerk of the superior court for the judicial district of New Britain or
 815 for the judicial district wherein the person appealing resides or, if
 816 [that] such person is not a resident of this state, with the clerk of the
 817 court for the judicial district of New Britain. An appeal of a final
 818 decision under this section shall be taken within such applicable forty-
 819 five-day period regardless of the effective date of the final decision.
 820 Within [that] such time, the person appealing shall also serve a copy of
 821 the appeal on each party listed in the final decision at the address
 822 shown in the decision, provided failure to make such service within
 823 forty-five days on parties other than the agency [that rendered the final
 824 decision] shall not deprive the court of jurisdiction over the appeal.
 825 Service of the appeal shall be made by United States mail, certified or

826 registered, postage prepaid, return receipt requested, without the use
827 of a state marshal or other officer, or by personal service by a proper
828 officer or indifferent person making service in the same manner as
829 complaints are served in ordinary civil actions. If service of the appeal
830 is made by mail, service shall be effective upon deposit of the appeal in
831 the mail.

832 (d) The person appealing, not later than fifteen days after filing the
833 appeal, shall file or cause to be filed with the clerk of the court an
834 affidavit, or the state marshal's return, stating the date and manner in
835 which a copy of the appeal was served on each party and on the
836 agency [that rendered the final decision,] and, if service was not made
837 on a party, the reason for failure to make service. If the failure to make
838 service causes prejudice to any party to the appeal or to the agency, the
839 court, after hearing, may dismiss the appeal.

840 (e) If service has not been made on a party, the court, on motion,
841 shall make such orders of notice of the appeal as are reasonably
842 calculated to notify each party not yet served.

843 (f) The filing of an appeal shall not, of itself, stay enforcement of [an
844 agency] a final decision. An application for a stay may be made to the
845 [agency] authority that rendered the final decision, to the court or to
846 both. Filing of an application with [the agency] such authority shall not
847 preclude action by the court. A stay, if granted, shall be on appropriate
848 terms.

849 (g) Within thirty days after the service of the appeal, or within such
850 further time as may be allowed by the court, the agency shall
851 transcribe any portion of the record that has not been transcribed and
852 transmit to the reviewing court the original or a certified copy of the
853 entire record of the proceeding appealed from, which shall include the
854 [agency's] findings of fact and conclusions of law, separately stated. By
855 stipulation of all parties to such appeal proceedings, the record may be
856 shortened. A party unreasonably refusing to stipulate to limit the
857 record may be taxed by the court for the additional costs. The court

858 may require or permit subsequent corrections or additions to the
859 record.

860 (h) If, before the date set for hearing on the merits of an appeal,
861 application is made to the court for leave to present additional
862 evidence, and it is shown to the satisfaction of the court that the
863 additional evidence is material and that there were good reasons for
864 failure to present it in the proceeding before the [agency] authority that
865 rendered the final decision, the court may order that the additional
866 evidence be taken before [the agency] such authority upon conditions
867 determined by the court. [The agency] Such authority may modify its
868 findings and decision by reason of the additional evidence and shall
869 file [that] such evidence and any modifications, new findings [,] or
870 decisions with the reviewing court.

871 (i) [The] Except as otherwise provided by law, the appeal shall be
872 conducted by the court without a jury and shall be confined to the
873 record. If alleged irregularities in procedure before the [agency]
874 presiding officer are not shown in the record or if facts necessary to
875 establish aggrievement are not shown in the record, proof limited
876 thereto may be taken in the court. The court, upon request, shall hear
877 oral argument and receive written briefs.

878 (j) [The] Unless a different standard of review is provided by law,
879 the court shall not substitute its judgment for that of the [agency]
880 authority that rendered the final decision as to the weight of the
881 evidence on questions of fact. The court shall affirm the final decision
882 [of the agency] unless the court finds that substantial rights of the
883 person appealing have been prejudiced because the administrative
884 findings, inferences, conclusions [,] or decisions are: (1) In violation of
885 constitutional or statutory provisions; (2) in excess of the statutory
886 authority of the agency; (3) made upon unlawful procedure; (4)
887 affected by other error of law; (5) clearly erroneous in view of the
888 reliable, probative [,] and substantial evidence on the whole record; or
889 (6) arbitrary or capricious or characterized by abuse of discretion or

890 clearly unwarranted exercise of discretion. If the court finds such
891 prejudice, [it] the court shall sustain the appeal and, if appropriate,
892 may render a judgment under subsection (k) of this section or remand
893 the case for further proceedings. For the purposes of this section, a
894 remand is a final judgment.

895 (k) If a particular agency action is required by law, the court, on
896 sustaining the appeal, may render a judgment that modifies the
897 [agency] final decision, orders the particular agency action, or orders
898 the agency to take such action as may be necessary to effect the
899 particular action.

900 (l) In all appeals taken under this section, costs may be taxed in
901 favor of the prevailing party in the same manner, and to the same
902 extent, that costs are allowed in judgments rendered by the Superior
903 Court. No costs shall be taxed against the state, except as provided in
904 section 4-184a.

905 (m) In any case in which a person appealing claims that [he] such
906 person cannot pay the costs of an appeal under this section, [he] such
907 person shall, within the time permitted for filing the appeal, file with
908 the clerk of the court to which the appeal is to be taken an application
909 for waiver of payment of such fees, costs and necessary expenses,
910 including the requirements of bond, if any. The application shall
911 conform to the requirements prescribed by rule of the judges of the
912 Superior Court. After such hearing as the court determines is
913 necessary, the court shall render its judgment on the application,
914 which judgment shall contain a statement of the facts the court has
915 found, with its conclusions thereon. The filing of the application for the
916 waiver shall toll the time limits for the filing of an appeal until such
917 time as a judgment on such application is rendered.

918 Sec. 25. Subsection (e) of section 1-82a of the general statutes is
919 repealed and the following is substituted in lieu thereof (*Effective*
920 *January 1, 2012*):

921 (e) The judge trial referee shall make public a finding of probable
922 cause not later than five business days after any such finding. At such
923 time the entire record of the investigation shall become public, except
924 that the Office of State Ethics may postpone examination or release of
925 such public records for a period not to exceed fourteen days for the
926 purpose of reaching a stipulation agreement pursuant to subsection
927 [(c)] (d) of section 4-177, as amended by this act. Any such stipulation
928 agreement or settlement shall be approved by a majority of those
929 members present and voting.

930 Sec. 26. Subsection (e) of section 1-93a of the general statutes is
931 repealed and the following is substituted in lieu thereof (*Effective*
932 *January 1, 2012*):

933 (e) The judge trial referee shall make public a finding of probable
934 cause not later than five business days after any such finding. At such
935 time, the entire record of the investigation shall become public, except
936 that the Office of State Ethics may postpone examination or release of
937 such public records for a period not to exceed fourteen days for the
938 purpose of reaching a stipulation agreement pursuant to subsection
939 [(c)] (d) of section 4-177, as amended by this act. Any stipulation
940 agreement or settlement entered into for a violation of this part shall be
941 approved by a majority of its members present and voting.

942 Sec. 27. Subsection (b) of section 4-61dd of the general statutes is
943 repealed and the following is substituted in lieu thereof (*Effective*
944 *January 1, 2012*):

945 (b) (1) No state officer or employee, as defined in section 4-141, no
946 quasi-public agency officer or employee, no officer or employee of a
947 large state contractor and no appointing authority shall take or
948 threaten to take any personnel action against any state or quasi-public
949 agency employee or any employee of a large state contractor in
950 retaliation for such employee's or contractor's disclosure of
951 information to (A) an employee of the Auditors of Public Accounts or
952 the Attorney General under the provisions of subsection (a) of this

953 section; (B) an employee of the state agency or quasi-public agency
 954 where such state officer or employee is employed; (C) an employee of
 955 a state agency pursuant to a mandated reporter statute or pursuant to
 956 subsection (b) of section 17a-28; or (D) in the case of a large state
 957 contractor, an employee of the contracting state agency concerning
 958 information involving the large state contract.

959 (2) If a state or quasi-public agency employee or an employee of a
 960 large state contractor alleges that a personnel action has been
 961 threatened or taken in violation of subdivision (1) of this subsection,
 962 the employee may notify the Attorney General, who shall investigate
 963 pursuant to subsection (a) of this section.

964 (3) [(A)] Not later than thirty days after learning of the specific
 965 incident giving rise to a claim that a personnel action has been
 966 threatened or has occurred in violation of subdivision (1) of this
 967 subsection, a state or quasi-public agency employee, an employee of a
 968 large state contractor or the employee's attorney may file a complaint
 969 concerning such personnel action with the Chief [Human Rights
 970 Referee designated under section 46a-57] Administrative Law
 971 Adjudicator. The Chief [Human Rights Referee] Administrative Law
 972 Adjudicator shall assign the complaint to [a human rights referee
 973 appointed under section 46a-57] an administrative law adjudicator,
 974 who shall conduct a hearing and issue a decision concerning whether
 975 the officer or employee taking or threatening to take the personnel
 976 action violated any provision of this section. If the [human rights
 977 referee] administrative law adjudicator finds such a violation, the
 978 [referee] adjudicator may award the aggrieved employee reinstatement
 979 to the employee's former position, back pay and reestablishment of
 980 any employee benefits for which the employee would otherwise have
 981 been eligible if such violation had not occurred, reasonable attorneys'
 982 fees, and any other damages. For the purposes of this subsection, such
 983 [human rights referee] administrative law adjudicator shall act as an
 984 independent hearing officer. The decision of [a human rights referee]
 985 an administrative law adjudicator under this subsection may be

986 appealed by any person who was a party at such hearing, in
987 accordance with the provisions of section 4-183, as amended by this
988 act.

989 [(B) The Chief Human Rights Referee shall adopt regulations, in
990 accordance with the provisions of chapter 54, establishing the
991 procedure for filing complaints and noticing and conducting hearings
992 under subparagraph (A) of this subdivision.]

993 (4) As an alternative to the provisions of subdivisions (2) and (3) of
994 this subsection: (A) A state or quasi-public agency employee who
995 alleges that a personnel action has been threatened or taken may file an
996 appeal not later than thirty days after learning of the specific incident
997 giving rise to such claim with the Employees' Review Board under
998 section 5-202, or, in the case of a state or quasi-public agency employee
999 covered by a collective bargaining contract, in accordance with the
1000 procedure provided by such contract; or (B) an employee of a large
1001 state contractor alleging that such action has been threatened or taken
1002 may, after exhausting all available administrative remedies, bring a
1003 civil action in accordance with the provisions of subsection (c) of
1004 section 31-51m.

1005 (5) In any proceeding under subdivision (2), (3) or (4) of this
1006 subsection concerning a personnel action taken or threatened against
1007 any state or quasi-public agency employee or any employee of a large
1008 state contractor, which personnel action occurs not later than one year
1009 after the employee first transmits facts and information concerning a
1010 matter under subsection (a) of this section to the Auditors of Public
1011 Accounts or the Attorney General, there shall be a rebuttable
1012 presumption that the personnel action is in retaliation for the action
1013 taken by the employee under subsection (a) of this section.

1014 (6) If a state officer or employee, as defined in section 4-141, a quasi-
1015 public agency officer or employee, an officer or employee of a large
1016 state contractor or an appointing authority takes or threatens to take
1017 any action to impede, fail to renew or cancel a contract between a state

1018 agency and a large state contractor, or between a large state contractor
 1019 and its subcontractor, in retaliation for the disclosure of information
 1020 pursuant to subsection (a) of this section to any agency listed in
 1021 subdivision (1) of this subsection, such affected agency, contractor or
 1022 subcontractor may, not later than ninety days after learning of such
 1023 action, threat or failure to renew, bring a civil action in the superior
 1024 court for the judicial district of Hartford to recover damages, attorney's
 1025 fees and costs.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	New section
Sec. 2	<i>October 1, 2011</i>	New section
Sec. 3	<i>October 1, 2011</i>	New section
Sec. 4	<i>October 1, 2011</i>	New section
Sec. 5	<i>January 1, 2012</i>	New section
Sec. 6	<i>January 1, 2012</i>	New section
Sec. 7	<i>January 1, 2012</i>	New section
Sec. 8	<i>January 1, 2012</i>	New section
Sec. 9	<i>January 1, 2012</i>	New section
Sec. 10	<i>January 1, 2012</i>	4-166
Sec. 11	<i>January 1, 2012</i>	4-176(g)
Sec. 12	<i>January 1, 2012</i>	4-176e
Sec. 13	<i>January 1, 2012</i>	4-177
Sec. 14	<i>January 1, 2012</i>	4-177a
Sec. 15	<i>January 1, 2012</i>	4-177b
Sec. 16	<i>January 1, 2012</i>	4-177c
Sec. 17	<i>January 1, 2012</i>	4-178
Sec. 18	<i>January 1, 2012</i>	4-178a
Sec. 19	<i>January 1, 2012</i>	4-179
Sec. 20	<i>January 1, 2012</i>	New section
Sec. 21	<i>January 1, 2012</i>	4-180
Sec. 22	<i>January 1, 2012</i>	4-181(a)
Sec. 23	<i>January 1, 2012</i>	4-181a
Sec. 24	<i>January 1, 2012</i>	4-183
Sec. 25	<i>January 1, 2012</i>	1-82a(e)
Sec. 26	<i>January 1, 2012</i>	1-93a(e)
Sec. 27	<i>January 1, 2012</i>	4-61dd(b)

Statement of Purpose:

To establish a Division of Administrative Hearings to hear contested cases concerning the Departments of Children and Families, Transportation, Consumer Protection and Motor Vehicles, the Commission on Human Rights and Opportunities and cases concerning retaliation for whistleblower complaints.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]